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Kings County Pesticide Regulatory Program 2007/2008 Performance Evaluation Report

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October 2008

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A Department of the California Environmental Protection Agency



Performance Evaluation of the Kings County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides an evaluation of the Kings County Agricultural Commissioner's (CAC's) Pesticide Use Enforcement (PUE) program for the fiscal year 2007/08. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan, as well as the program's adherence to Department of Pesticide Regulation (DPR) standard as described in the Pesticide Use Enforcement Program Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the fiscal year, the following core areas of Kings County's pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal year 2007/08.

A) Restricted Materials Permitting:

The restricted materials permitting program meets DPR standards and work plan goals.

B) Compliance Monitoring:

The compliance monitoring program meets DPR standards and work plan goals.

C) Enforcement Response:

The enforcement response program meets DPR standards and work plan goals.

Summary Statement

The Kings County Agricultural Commissioner's pesticide use program is currently effective and no deficiencies were identified.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting:

Permit Issuance

Kings County Agricultural Commissioner's staff who issue restricted materials permits are experienced biologists and are knowledgeable of pesticide laws and regulations. Staff experience in pesticide enforcement activities ranges from 6 months to thirteen years. Most of the Kings County pesticide use enforcement staff possess both pesticide regulation and environmental monitoring licenses. The newest staff member holds one license in pesticide regulation.

The most experienced biologists assure the permits are correct and complete before issuing the permit. Biologists interview the restricted materials permit applicant to determine if they have met the requirements to hold a restricted materials permit and are the operators of the property. If they are not operators of the property, a letter of authorization is required to be in the possession of the applicant before issuance of the permit. If the applicant possesses a private

applicator certificate or a qualified applicator license, the county verifies and lists the number on the restricted materials permit with the expiration date of the license.

Kings County uses the Restricted Materials Management System (RMMS) to issue permits. The program checks the permit for completeness. Geographic Information System (GIS) maps and growers' maps are used to help evaluate the surrounding environment and identify sensitive sites, such as, schools, residential areas, waterway, labor camps, apiaries and parks. Completion of a countywide sensitive area map during the 2007 permitting season allows for better evaluation of potential hazards. When changes are noted in the field, staff updates the large wall map and a new map is printed on an annual basis.

Before approving a restricted material on a permit, the biologist consults DPR's pesticide label database to verify DPR registration of the restricted material for use on that site. A biologist reviews the permit conditions that may apply to the pesticides and conditions the permit accordingly. The RMMS program flags and prints out the conditions. GIS maps issued to growers when they apply for their pesticide permits are used to identify sensitive sites. Kings CAC staff evaluates the permits, and determines if practical mitigation measures or feasible alternatives are required.

The Kings County Agricultural Commissioner's office issues restricted materials permits for a one-year period. Approximately 790 restricted materials permits, 410 permit amendments and 115 operator identification numbers (IDs) were issued during 2007/08 fiscal year. Amendments are made to restricted materials permits using DPR's supplemental form and require the signature of an authorized representative. Site and crop changes may be made by fax. The commissioner requires changes that may create undue hazards such as use of fumigants and Section 18 uses be made in person by the permit applicant. Staff attaches the supplemental page to the original permit, as well as enters the amendment into the RMMS program. The PUE Deputy conducts annual trainings on policies and procedures used to issue permits and properly identify sensitive sites.

The DPR evaluation determined that permits are:

- Issued only to qualified applicants
- Signed by the operator of the property or authorized persons
- Issued for a one-year time period
- Permit amendments follow approved procedures

Site Evaluation

Notices of intent (NOIs) are received by fax, mail, drop box, walk-ins, and using the RMMS web application through the county's website. Licensed pesticide enforcement staff reviews and checks all NOIs against the permit in the computer. One biologist remains in the office to review and assign the day's NOIs to the appropriate county area and issue permits. The remaining biologists conduct field work in one of four regional areas within the county. When NOIs are submitted, biologists in the field check sensitive sites which include parks, residential areas, schools, hospitals, and labor camps. The biologists have the authority to accept or deny a NOI. When an NOI is denied, a form is completed and filed in the restricted materials permit file and the property operator and pest control business are notified. The county reviewed and processed over 4,200 NOIs (approximately 7,200 sites) in 2007/08. This corresponds to a 7.5% decline in

the number of annual NOIs. Drought, an increase in corn production, and a decrease in cotton acreage may have contributed to this reduction in NOIs.

The Kings CAC maintains strict permit conditions for the use of metam sodium. The permit conditions vary for the use of metam sodium applied through sprinklers, drip, or shank methods. The buffer zones and water sealing methods differ for each application and alternative methods are considered when the original method is denied. Inspections on all fumigant applications near sensitive sites assure that buffer zones are both accurate and adequate. For fumigant and defoliant applications proposed around sensitive sites, pre-application site inspections are conducted above 5% ratio.

The Kings CAC denies NOIs for proposed aerial applications within one-quarter mile or ground applications within one-eighth mile of sensitive crops. The implementation of cutoff dates for several phenoxy herbicides including 2,4-D and MCPA have prevented crop damage and losses. During the period of March 1-15, the Kings CAC approves NOIs for permitted phenoxy herbicides on a case-by-case basis. In 2006, Kings County implemented permit conditions for non-restricted herbicides such as glyphosate, oxyfluorfen, and several acetamiprid products because of damage to sensitive crops. These permit conditions were maintained throughout the 2007/08 fiscal year.

The NOIs:

- Contained the necessary information
- Attached conditions for permitted materials
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses
- Identified mitigation measures and included conditions that addressed known hazards

The Kings County Agricultural Commissioner's staff reviews all NOIs in a timely manner and adequately monitors agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring

Inspections

Biologists issue a violation notice for any criteria item marked "No" on the inspection form. The biologist conducts a headquarters/employee safety follow up inspection for worker safety non-compliances, or for any non-compliance not corrected at the time of the inspection. The biologist also reviews the compliance history for the firm/person inspected, and meets with the deputy commissioner before issuing a violation notice. The deputy commissioner is responsible for preparing the case file and notice of proposed action.

Kings County Agricultural Commissioner's staff attended training sessions in 2007/08 that included commodity and structural fumigation, investigative sampling techniques, pesticide wildlife incident response, and California's new respirator and volatile organic compound regulations. The deputy commissioner holds weekly staff meetings to discuss pesticide issues, safety, and to review enforcement issues.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements
- Include interviews of employers and employees
- Adequately document violations
- Include appropriate follow-up inspections and procedures

Investigations

A Kings County Agricultural Commissioner's staff, designated as Agricultural Biologist III, conducts pesticide enforcement investigations. Two (more experienced) inspectors are assigned to investigate pesticide related illnesses, while the remaining staff investigates other complaints. Inspectors create case files and investigative reports on all incidents or complaints associated to pesticides. The investigations adequately provide the information necessary to successfully proceed with legal action when warranted. Kings County maintains a complaint log, available to the liaison for review.

C) Enforcement Response

Kings County pesticide enforcement staff issues a violation notice for non-compliances discovered during inspections and investigations. Kings County clerical staff data enters the violation information into a database. The deputy commissioner reviews the compliance history of each respondent and utilizes the enforcement response regulations to determine if an enforcement action is warranted. Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by the enforcement response regulations. When writing a decision report in lieu of an enforcement action, the county includes the violations found, classification, respondent's compliance history, and an explanation of the CAC's decision not to take an enforcement action.

Kings County issued approximately 13 agricultural civil penalties in fiscal year 2007/2008.

The CAC enforcement program was found to:

- Initiate the appropriate action when violations are identified
- Sufficiently support compliance, enforcement and public protection actions

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when implementing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

Outreach and Training

Each year, the Kings County Agricultural Commissioner's office provides pesticide safety training in English and Spanish to workers including school employees, growers, pesticide applicators, and farm labor contractors. The course includes information on pesticide safety, first aid, container disposal, heat stress, how to read and understand pesticide labels, and updates on pesticide laws and regulations.

Staff from the Kings County Agricultural Commissioner's office participates in California Agricultural Pest Control Advisors (CAPCA), Pesticide Applicators Professional Association (PAPA) and Farm Bureau meetings to provide outreach on laws and regulations regarding pesticides.

Staff provides outreach to the community through an agricultural commissioner's booth at the Kings County Fair. They provide information regarding the agricultural commodities grown in Kings County and distribute Department of Pesticide Regulation fact sheets and brochures. Staff assists with presentations to teachers through the Education and Agriculture Together (EAT) program. The program helps teachers integrate agriculture into their curriculum. Staff addresses pesticide enforcement, safety, pesticide illness, and how to promote and protect agriculture through Kings County Education outreach.